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THE BEHRING SEA DISPUTE.

HON. E. J. PHELPS,
Ex-minister to Great Britain.

The simple question presented is whether the United States Government has a right to protect its property and the business of its people from this wanton and barbarous destruction by foreigners, which it has made criminal by act of Congress, or whether the fact that it takes place upon waters that are claimed to be part of the open sea affords an immunity to the parties engaged in it which the Government is bound to respect. To the ordinary mind this question would not appear to be attended with much difficulty. It is said that the Government is prevented from discharging this obvious duty (that is the duty of protecting the seal), because the sea is free; that no nation can undertake to close the ocean against the ships of any other nation, nor to exercise over them beyond three miles from the coast, any permanent jurisdiction. In what does the freedom of the seal consist, what is the use of it that individual enterprise is authorized to make under that international law which is only the common consent of civilization? Is it the legitimate pursuit of its own business, or the wanton destruction of the valuable interests of nations? If the Government of the United States is restrained by any principle of law from protecting itself and its citizens against this great loss it must be because the Canadian shipowners have a right to inflict it. But it is to be borne in mind in this discussion that Great Britain has never yet, in all the correspondence that has taken place, asserted the right of the Canadians to do what they have been engaged in. The question is not one of abstract theory. It is whether the Canadian ships have an indefensible right to do precisely what they have done and are doing, despite the necessary consequences that must follow. This is the issue in the case, to which all other inquiries are only subordinate. It is for those who set up such a right to sustain it, and if it can be supposed to be sustainable by precedents, it is for those who assert it to produce them.

Mr. Blaine inquires in his recent communication whether the United States Government is to understand that Her Majesty's Government maintains that the right contended for by Canada exist. This is a question to which he will not be likely to obtain a direct reply. As before stated, that Government has once conceded the justice and expediency of a convention by which such a claim would be prohibited. Her Majesty's Ministers temporize and delay. They engage in the discussion of abstract and incidental questions, or transmit the contentions of the Colonial Government, without committing themselves directly upon the decisive point on which the controversy turns. They courteously, slowly and diplomatically evade the real issue, and decline to concede that the colony is in the wrong, well knowing by experience that whatever Administration may be charged for the time being with the Government of the United States will, in the efforts it makes to assert its rights, encounter the hearty condemnation of the political party opposed to it; that the arguments it addresses to the foreign Governments will be abundantly answered and refuted by American writers and their authors held up to derision, and that the next election is very likely to bring into power a new Administration, which may abandon the contentions of their predecessors and put the case on entirely different grounds.

If our Government is demanding what is wrong, the demand should at once be abandoned. If it is claiming what is right and what is worth claiming, it should receive the support of all parties, whether all the points taken and all the arguments by which it endeavors to support its case prove universally convincing or not. Arbitration has been spoken of as a means of settling the dispute; but that has been already proposed by the United States, without success. The offer has been met by a counter proposal to arbitrate, not the matter in hand, but an incidental and collateral question. That resource is, therefore, out of the question. It would be easier to settle the controversy than to settle the points and preliminaries of an arbitration. Two things must concur to make an arbitration useful; first, that the question submitted should be the question at issue, whether the Canadians have or have not the right, as against the United States Government, to do exactly what they are doing; and, next, that pending the lingering progress of such an arbitration, the depredations in question should be suspended so that the destruction shall not be accomplished while it is being debated whether it shall take place.

It is enough to say that the questions likely to be involved, so far as they can be anticipated by those not concerned in the litigation, do not bear upon the inquiries that have been touched upon in these remarks. Whether a vessel can be forfeited by decree of an Admiralty Court must depend on the statute under which the court proceeds and the extent of its application. Whether existing legislation on the subject may require to be supplemented, extended or recast in order to effect that result may need to be considered. But the power of the Government meanwhile to protect the national interests against foreign invasion by such and so much force as may be found necessary in the emergency, is a power incident to sovereignty and to be exerted upon the responsibility and within the just discretion of the Executive. There are three methods by which the Behring Sea question can be settled, and by one or other of which it must soon be disposed of. First, by putting a stop, without further debate, to the depredations of individual foreigners upon the breeding seals. Second, by conceding to these foreigners the right to destroy the fishery and withdrawing further remonstrance. Third, by continuing the discussion with Great Britain of the abstract questions supposed to be involved until the extermination of the seal is completed, and the subject of the dispute thereby exhausted, for which we shall not have long to wait. If the last course is taken, the credit of it will be due less to the administration charged with the conduct of our foreign relations than to the public sentiment which it represents and by which it must be guided.—*Harper's Magazine.*

We are frequently told that man is a fighting animal; supposing this to be true, is it not our duty to repress this propensity until, through heredity, the inclination disappears? Man is naturally a naked animal, but we succeed in making him hide his natural condition from his fellows; it would be a strange world if all man's natural conditions were allowed to be paraded, and all propensities indulged.—*Mr. Grouet, a London workingman.*

“I keep under my body and bring it into subjection.”